

a direct competitor for "0+" call routing capabilities.⁵⁶ This would result in a loss of all "0+" calls and revenues for a CAP,⁵⁷ and also significantly disadvantage CAPs in competing for the "1+" services of IXC's and aggregators.⁵⁸ These results would thwart the Commission's efforts of the past few years to promote local exchange competition.⁵⁹

Finally, because BPP will create yet another LEC bottleneck, it creates new possibilities of anticompetitive consequences that must be addressed by federal and state regulators if BPP is applied to intraLATA calls, or if eventually the RBOCs enter the long distance market. Some of the concerns will stem from *de facto* advantages a LEC will have, such as the possibility that the LEC operator handling BPP call routing would also handle call completion services, thereby avoiding the "two operator" problem that customers of other IXC's would experience. The LEC's historic base of line number calling cards and the possibility this will translate into a *de facto* monopoly on such cards is another example of this concern.⁶⁰ Other concerns will result from the incentive that LEC's would have to cross-subsidize competitive services and

⁵⁶ Teleport Comments at 9; MFS Comments at 4-5. As MFS explained, given the small market share of CAPs, it would be prohibitively expensive for them to develop their own BPP routing capabilities. *Id.*

⁵⁷ Teleport Comments at 8-9.

⁵⁸ MFS Comments at 5.

⁵⁹ See, e.g. *Expanded Interconnection with Local Telephone Company Facilities*, FCC No. 94-190 (released July 25, 1994).

⁶⁰ See FNPRM ¶73.

discriminate in favor of their own "0+" services.⁶¹ Combatting both types of concerns will require considerable regulatory resources to develop and enforce safeguards (such as structural separation requirements and/or detailed accounting rules) designed to remedy LEC advantages or abuses. Even assuming these measures would be effective, they will add significantly to the Commission's regulatory expenditures, as there will be a host of transactions to monitor and issues to review. To the extent the measures are ineffective, consumers must pay the cost in the form of reduced competition and monopoly LEC pricing. Either way, it is clear that BPP will add significant regulatory costs as a result of this new bottleneck.

V. THE COMMISSION HAS AVAILABLE MANY ALTERNATIVES WITH WHICH TO ADDRESS THE PERCEIVED PROBLEMS IN THE OPERATOR SERVICES MARKETPLACE AT LESS COST THAN BPP

In assessing whether BPP is worth the cost, it is important to recall the relatively narrow "problems" that BPP is said to address. First, current dialing procedures are alleged to be too confusing for consumers. Second, the system of premises owner presubscription is seen to favor AT&T. Finally, the rates of some OSPs are perceived to be too high. To the extent that any of these concerns still have

⁶¹ See Teleport Comments at 9-10 (LECs may cross subsidize competitive services such as payphone installation and maintenance); MFS Communications Company Comments at 6 (BPP would provide an incentive for RBOCs to discriminate in the interLATA market). This discrimination could take many other forms as well, including delays in sending call setup information to competitors, and preferential treatment of 0+ PIC changes.

merit in light of the substantial changes in the market since the passage of TOCSIA, each may be addressed by more narrowly-tailored measures that do not have the economic, technological and competitive drawbacks of BPP. Indeed, the need for more narrow measures is highlighted, as discussed above, by the overwhelming concern of the LECs that BPP costs will not be recovered.

A. Access Code Calling Can Be Simplified

The initial influx of operator services competition coupled with the inconsistent availability of access codes led to a great deal of confusion and frustration in the late 1980s and early 1990s, some remnants of which exist to this day. The comments confirm that TOCSIA has solved the bulk of this problem. BellSouth, for example, described a 1991 study which revealed that, even at that time, frequent users of public phones did not find the use of access codes to be a significant burden.⁶² In addition, well over half of all callers today are aware of access codes,⁶³ and, as Ameritech confirmed, consumers are willing to use them to obtain even a small cost savings (5%).⁶⁴ These results are consistent with the FCC's conclusion in the TOCSIA Report that 800 and 10XXX access codes have gained "substantial marketplace

⁶² BellSouth Comments at 5.

⁶³ E.g. AT&T Comments at 8; Ameritech Comments at 8.

⁶⁴ Ameritech Comments at 7-8.

acceptance."⁶⁵ Any residual confusion is likely to dissipate further, as callers continue to have experience with the use of access codes and as blocking continues to decline.

Moreover, if the Commission wishes to increase the "user-friendliness" of access codes, this can be accomplished in a variety of ways. First, the FCC could increase its enforcement efforts and/or penalties for violations of unblocking regulations to ensure that access code dialing will be available on a consistent basis.⁶⁶ Second, much could be done to ease access to a preferred IXC for callers unable or unwilling to remember IXC access codes. Callers could receive IXC access codes through directory assistance services, as Bell Atlantic suggests,⁶⁷ or callers could reach their IXC of choice through a "0-" transfer such as is offered today by some LECs.⁶⁸ Either

⁶⁵ TOCSIA Report at 29.

⁶⁶ See Ameritech Comments at 5; SNET Comments at 4 n. 12; AT&T Comments at 10. The lack of consistency in availability, not a dislike of access codes, appears to be the reason for Sprint's decision to reverse the order of the recommended dialing procedures on its calling cards. See Sprint Comments at 11-12. As to Sprint's implied suggestion that users rebel against "the much longer" 800 number, *id.*, the astronomical increase in the use of 1-800-COLLECT and 1-800-CALLATT refute this contention. *E.g.*, APCC Comments at 23; Bell Atlantic Comments at 9 (MCI has described 1-800-COLLECT as its "fastest-growing product ever").

⁶⁷ Bell Atlantic Comments at 10. Similarly, one would expect that LECs would be willing (for a fee) to list access codes in telephone books as well.

⁶⁸ BellSouth Comments at 17. Alternatively, the presubscribed IXC could be required to transfer callers to a different IXC upon request, perhaps with the establishment of an IXC through-rate to avoid call splashing.

option would be particularly helpful to infrequent users of operator services, who may not wish to remember an access code.

B. AT&T's Advantages Should Be Addressed with Narrowly-Tailored Measures.

Sprint argues that AT&T's large number of calling cardholders and high share of presubscribed public phones give it "synergistic advantages" in both markets.⁶⁹ CompTel agrees that AT&T enjoys significant advantages, which in many ways are remnants of its pre-divestiture monopoly. However, these advantages should be addressed by other regulatory measures less drastic than BPP. For example, CNS identified several LEC billing and collection practices that may give AT&T significant advantages over smaller rivals, and recommended that the Commission require LECs to provide non-discriminatory access to billing and collection services.⁷⁰ CompTel supports this proposal.⁷¹ It is incumbent upon the Commission to consider all alternative ways to address AT&T advantages prior to mandating a radical redesign of the network.

⁶⁹ Sprint Comments at 22-23.

⁷⁰ CNS Comments at 28-34.

⁷¹ In addition, as CompTel urged in Phase I of this proceeding, the Commission could remedy many of AT&T's advantages in the presubscription market by adopting a policy of 0+ in the public domain.

C. High OSP Rates Are Being Addressed By the Market and Can Also Be Addressed by Other Means.

At bottom, many of the arguments offered in support of BPP reduce to a complaint that the rates of some OSPs are excessive. Here also, however, if this is the problem, less costly solutions are available.

First, the benefits of TOCSIA's market-based approach to reduce rates must be recognized. One of the purposes of TOCSIA was to ensure callers had both the opportunity to make informed choices among OSPs and the ability to exercise their choice.⁷² In its 1992 Final Report to Congress, the Commission concluded that these objectives were being achieved, and, as a result, "market forces are securing rates that are just and reasonable."⁷³ The comments confirm that, two years later, those market forces continue to function effectively. Several commenters provided independent evidence that the majority of calls are now placed using an access code to bypass the presubscription selected by the premises owner.⁷⁴ When as many as two out of three calls are placed using access codes (NYNEX Comments at 4), consumers are making their preferences known loud and clear.

If the Commission concludes that market is not providing a sufficient discipline for some OSPs, CompTel recommends the use of appropriately-tailored benchmark rate

⁷² See TOCSIA Report at 2-3.

⁷³ *Id.* at 30.

⁷⁴ See *supra* p. 15.

regulation to remedy the problem.⁷⁵ A benchmark would save regulatory costs in reviewing the vast majority of OSP rates that are below the benchmark, while permitting detailed review of the reasonableness of rates that are above the benchmark. The benchmark should be set at some percentage above the dominant carrier's rate,⁷⁶ to take into account the higher cost structure most OSPs face. This was the approach of the Tariff Division in 1991.⁷⁷ As the Tariff Division's experience with a benchmark approach to OSP rates demonstrated, the approach can be pursued effectively without the need for significant administrative burdens or costs. Moreover, the benchmark approach would "save" consumers the exorbitant expense needed to implement BPP.

The record provides strong support for this alternative. APCC and numerous individual IXCs support some form of a benchmark rate.⁷⁸ Several LECs, including PacTel, which supports BPP, recognized that a benchmark approach will achieve many

⁷⁵ CompTel Comments at 39-46.

⁷⁶ Without an inquiry into the cost structure of the OSP industry, it would be premature to assign a particular benchmark at this time.

⁷⁷ *E.g., American Network Exchange, Inc., et al.*, 7 FCC Rcd 163 (1991) (In separate orders, several carriers with sample rates of \$7.56 and above for an 8-minute call ordered to justify their rates).

⁷⁸ APCC Comments at 30-31; AMNEX Comments at 7-8; ClearTel/Call America Comments at 12-13; Consolidated Communications Operator Services, Inc., *et al.* Comments at 5; Intellicall Comments at 7-8.

of the benefits that BPP is supposed to provide, at substantially less cost.⁷⁹ Further, the Pennsylvania Public Utility Commission also endorsed a rate cap approach as a preferable alternative to BPP.⁸⁰ Clearly, a billion dollars is not needed to accomplish what a benchmark can do at much less cost.

VI. COMPETITION FOR "0+" SERVICES IS BEING FOCUSED ON THE END USER TODAY

One of the effects of the availability of dial around is to increase the incentive for OSPs to offer quality services at reasonable prices so as to encourage users not to dial around. The Commission acknowledged this "long-term" benefit in its TOCSIA Report when it concluded:

As more callers dial-around presubscribed OSPs, aggregators will experience a decline in commission revenue. This will force OSPs to compete for aggregator contracts on the basis of factors that are of interest to the consumer such as rates and quality of service.⁸¹

This "long-term" benefit has arrived. No carrier today can continue to ignore dial around when more than half of the callers at the time they make their purchasing decisions, are choosing *not* to use the "0+" service provided by the presubscribed carrier. Indeed, with the frequency of dial around so high, an IXC's status as the

⁷⁹ Bell Atlantic Comments at 3; NYNEX Comments at 13; PacTel Comments at 7-8.

⁸⁰ Reply Comments of the Pennsylvania Public Utility Commission at 10-11 (filed August 31, 1994).

⁸¹ TOCSIA Report at 30.

presubscribed carrier is evolving more and more into simply an opportunity to advertise one's services to the prospective caller.

Moreover, the dial around that is creating this pressure is itself a result of a focus on the end user. IXC's, large and small, are offering callers a variety of options to meet their need for operator services. Telephone debit cards have been introduced to the market, and appear to be gaining substantial acceptance.⁸² Similarly, many IXC's rely upon and heavily promote dial around to their customers and to potential customers.⁸³ Moreover, innovative calling options such as MCI's 1-800-COLLECT, Visa/Sprint's "Visa Phone" and FoneAmerica's "DriveLine" card are becoming more frequent methods of attracting callers.⁸⁴ These efforts will continue and are likely to intensify.

These market developments remove any need for BPP to "refocus" competition. In today's marketplace, neither IXC's nor aggregators will survive long if they do not offer telecommunications services that are attractive to end users. The ability of aggregators to force an IXC upon end users are long gone. IXC's in particular must now concentrate their efforts on attracting end users, both to use the IXC when it is the presubscribed carrier and to dial around to it when a different carrier is presubscribed.

⁸² CNS Comments at 8-9 (\$100-300 million will be charged to telephone debit cards in 1994).

⁸³ See, e.g., LDDS Comments at 8-9; AT&T Comments at 8.

⁸⁴ See BellSouth Comments at 16-17 (describing Sprint's "VisaPhone" joint venture and FoneAmerica's "DriveLine" card aimed at truckers).

Such competition is intensifying due to present market forces, and there is no need for a billion-plus dollar overhaul of the telecommunications network to reshape these forces.

CONCLUSION

Billed Party Preference has been under consideration by the Commission for seven years. During that time, support for the proposal has eroded considerably, as the enormous costs, technical obstacles, and service quality drawbacks become increasingly apparent. Now is the time for the Commission to put the idea to rest once and for all. BPP is an expensive solution to a rapidly disappearing problem and will create as

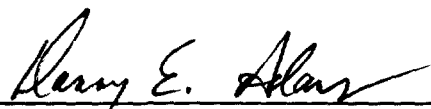
many new problems as it would solve. Accordingly, BPP should not be adopted and this proceeding should be terminated.

Respectfully submitted,

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September 14, 1994

ATTACHMENT 1
ANNUAL COSTS OF BPP
(USING FNPRM ANALYSIS)

The following table compares BPP costs as estimated by the FNPRM with revised estimates obtained from the comments, using the same assumptions as used in the FNPRM analysis. "NR" represents the amortized costs of non-recurring expenses using the FCC's annual amortization factor of 29%. "R" represents annual recurring costs, without an offset for OSP cost savings. Where identifiable, costs for 0+ balloting and 14 digit screening are excluded.

	FNPRM		Comments ¹	
	NR	R	NR	R
Ameritech ²	\$14.2M	\$14.1M	\$25.6M	\$35.0M
Bell Atlantic	36.4M	8.6M	39.2M	9.0M
BellSouth ³	42.2M	6.8M	27.7M	29.0M
Cincinnati Bell ⁴	---	---	2.6M	7.8M
GTE ^{5, 6}	38.0M	25.4M	46.0M	52.3M
NYNEX ⁷	37.5M	13.7M	33.7M	20.7M
PacTel ⁸	41.8M	26.1M	41.8M	26.1M
SNET ⁹	---	---	9.6M	14.0M
Sprint (United, Centel) ^{10, 11}	---	---	34.3M	(0.7)
SW Bell ¹²	46.6M	9.0M	32.8M	15.3M
U S West ¹³	43.5M	27.8M	43.5M	27.8M
USTA ¹⁴	57.3M	17.6M	89.8M	10.5M
TOTALS	\$357.5M	\$149.0M	\$426.6M	\$246.8M

1. Cost estimates are taken from: Ameritech Comments at Attach. A; Bell Atlantic Comments at 12; BellSouth Comments at App. A; Cincinnati Bell Comments at 4; GTE Comments at Attach. A; NYNEX Comments at Attach. C; SNET Comments at 6; Sprint Comments at 27; Southwestern Bell Comments at Attach. A; USTA Comments at 4. In the case of PacTel, which filed Comments but did not revise cost estimates and US West, which did not file initial Comments, the FNPRM's estimates were used.

2. \$15.6M removed for "0+" balloting.

3. \$4.4M removed for "0+" balloting.
4. Not included separately in *FNPRM* estimate; balloting costs included because not separately quantified.
5. Costs of OSS7 implementation to end offices (\$97.5 million) included. Costs of "0+" balloting/mail inserts excluded (\$1.6M).
6. GTE notes that its costs do not include those of local exchange facilities it has recently sold. It is not clear to whom these exchanges were sold and whether the BPP costs associated with these territories have been included in the record in this proceeding. The overall cost estimates are low to the extent these costs have not been included.
7. \$4.1M removed for "0+" balloting.
8. Did not file revised estimates.
9. Not included separately in *FNPRM* estimate. Estimated \$33 million in implementation costs in its initial comments. SNET Comments at 3 (July 7, 1992).
10. Not included separately in *FNPRM* estimate. Previously estimated \$91.5 million in non-recurring costs and \$11.9 million in recurring costs. United/Central ex parte, October 1, 1993.
11. Estimate includes \$68.7 million for OSS7 implementation in all end offices (excluding \$149.9 M charge for accelerated conversions).
12. Non-14-digit screening estimate used. \$6M for balloting taken out.
13. Did not file revised cost estimates.
14. Customer solicitation (balloting) costs excluded (\$8.6M).



RECYCLED

ED11

ALL-STATE LEGAL SUPPLY CO. 1-800-222-0510

Attachment 2

Recalculation of Estimated Commission "Savings" Using Updated Data in FNPRM's Calculations

The following explains CompTel's recalculation of the commission "savings" resulting from BPP. This calculation follows the calculation described in Appendix B of the FNPRM with the following two refinements (discussed in CompTel's initial comments at pp. 11-12): (1) the full \$12 per phone payphone compensation amount is used where the FNPRM accounted for only the increased compensation and (2) an offset is made to account for aggregator's likely recoupment of at least 50% of lost OSP commissions via other means. The calculations derived from the more accurate growth rate are described separately from the calculations using all updated data.

A. Operator Services Growth Rate. According to Table 4 of the FCC's TOCSIA Final Report, 1991 operator service revenues from aggregator phones were \$6.1 billion, approximately \$1.2 billion of which was third tier OSP revenue. At an average annual growth rate of 0.63 percent, 1997 revenues would be \$6.3 billion, while third tier OSP revenues would be \$1.246 billion, which we round to \$1.3 billion. Assuming that third tier OSP revenues would decline by 1/3 during this period and using the FNPRM's estimate of a 36% "discount" resulting from the price differential, revenues would be reduced by \$150 million, leaving 1997 operator services revenue at approximately \$6.1 billion.

Assuming 18.1% of calls are intraLATA and a dial around rate of 50%, 1997 0+ interLATA revenues would be approximately \$2.5 billion. Applying an average commission rate of 12%, 1997 commissions would be \$300 million.

Next, we subtract \$44 million from this total to account for commission payments made in the form of dial around compensation, leaving approximately \$256 million in other commission payments. Next, \$13.6 million is subtracted to account for commissions that would otherwise have been paid on the "savings" from avoiding higher OSP rates, which is calculated as follows: \$226 million in reduced third tier OSP revenues (adjusted from \$280 million to reflect the 0.63 percent operator services growth rate) x 50% non-dial around calls x 12% average commissions. This results in a total reduction in OSP commission payments to aggregators of \$242.4 million. Finally, assuming that aggregators recoup only 50% of this lost revenue from consumers via other means, the total commission "savings" would be \$121.2 million.

B. All Updated Data Considered. As with the above calculation, 1997 operator services revenues, adjusted for the average growth rate of 0.63 percent and for lost revenues due to the decline in third tier OSP market share, would be \$6.1 billion. Assuming 18.1% of calls are intraLATA and a 1997 dial around rate of 70 percent, total 1997 0+ interLATA revenues would be approximately \$1.5 billion. Applying an average commission rate of 12% yields an estimated \$180

million in commission payments for 0+ interLATA calls. Accounting for the full amount of commission payments made in the form of dial around compensation leaves approximately \$136 million in other commission payments. Next, commissions that would otherwise have been paid on the "savings" from avoiding higher OSP rates would be approximately \$8.1 million ($\$226 \text{ million in adjusted aggregate savings} \times 30\% \text{ non-dial around calls} \times 12\% \text{ average commissions}$), resulting in a total reduction of OSP commission payments to aggregators of \$127.9 million. Finally, assuming that aggregators recoup only 50% of this lost revenue from consumers via other means, the total commission "savings" would be \$64.0 million.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September 1994, I caused copies of the foregoing "Reply Comments of Competitive Telecommunications Association" was served via U.S. first class mail, postage prepaid, or via hand delivery (denoted by a *), upon each of the following parties listed below.

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A handwritten signature in black ink, appearing to read "Steven A. Augustino", is written over a horizontal line.

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